



# TAX INFORMATION MEMORANDUM

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## Subj: Update on the Military Spouses Residency Relief Act (MSRRA)

1. **Greetings from the 16 crew!** Due to the myriad changes going on in tax law, we've decided to double-dip on Tax Information Memorandums (TIM's) this month. Thus, we greet you today with a special January 15th edition. For most people, January 15 is the date where you can begin filing your taxes. For history buffs, you might remember this as the deadline that President George H.W. Bush imposed on Saddam Hussein to leave Kuwait, back in 1991. (For those JGs out there who don't remember, Saddam didn't make it in time) But enough of the past, and time to focus on the glorious future – in this case the Military Spouses Residency Relief Act (MSRRA).

2. **Recap from LAPA 17-09:** Last November, our office alerted the field to a very significant change in tax law – the passage of the Military Spouses Residency Relief Act, Public Law 111-97 – an effort to provide military spouses something akin to the protection given to Soldiers, Sailors, Airmen, and Marines under the Servicemembers Civil Relief Act (SCRA). To refresh your recollection:

“A spouse of a servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation [personal, income, or personal property] ... by reason of being absent or present in any tax jurisdiction of the United States solely to be with the servicemember in compliance with the servicemember's military orders if the residence of domicile ... is the same for the servicemember and the spouse.”

Translation in LAPA 17-09: The spouse of the military member is entitled to SCRA protection for the **same** domicile of the military spouse - **IF** the dependent spouse had also previously acquired that same legal domicile.

Immediately after the passage of the MSRRA, countless military members and their spouses immediately began thinking of all the great stuff they could buy from the money they were going to save. But like many things in life, the truth is more complicated than that. Contrary to what some might expect, changing your domicile for legal/tax purposes requires more than just going to your local PSD and filling out a DD Form 2058. As stated in LAPA 17-09, determination of domicile is based on several factors, including, but not limited to: (1) voter registration, (2) purchase of residential property, and (3) registration/titling of motor vehicles. The key point, that has literally been “drilled” into our heads at Code 16 – is that a spouse must show a continuing tangible connection to the state that he/she wishes to claim, **and** a demonstration of intent to return.

3. **Points to Consider:** The main points to remember on the MSRRA are:

- It is retroactive starting January 1, 2009.
- The dependent spouse must assert legal residence in the **same** State as the military spouse to qualify for the Act's protections.
- Servicemembers and their spouses will likely have to provide documentation of their claimed legal residence as determined by the non-domicile State.
- Both the servicemember and spouse must have some State as their legal residence – they cannot claim to be a non-resident of all States, even if stationed overseas. (Yes, we've had that question several times.)
- The exemption only applies to wage income and income from services performed in the non-domiciled State. For example, a spouse operating a business in the non-domicile State may not qualify for exclusion of the business income. Similarly, income from business or rental property in that State will be subject to taxation in the non-domicile State.

**Please see the attached PowerPoint presentation and Information Paper for additional information.**

4. **Update on Individual States:** Several States have begun to release more detailed information/guidance on their websites. Some of the more prominent states (with a large military presence) that have released guidance are listed below:

California: [http://www.ftb.ca.gov/forms/2009/09\\_1032.pdf](http://www.ftb.ca.gov/forms/2009/09_1032.pdf)

Connecticut: <http://www.ct.gov/drs/cwp/view.asp?a=1462&Q=266282&PM=1>

District of Columbia: <http://newsroom.dc.gov/show.aspx/agency/otr/section/2/release/18797>

Illinois: <http://www.revenue.state.il.us/taxforms/IncCurrentYear/Individual/Schedule-MR.pdf>

Maryland: <http://individuals.marylandtaxes.com/incometax/military/default.asp>

N. Carolina: <http://www.dor.state.nc.us/taxes/individual/military.html>

S. Carolina: <http://www.sctax.org/NR/rdonlyres/3FFFBA54-5A8A-4D20-9845-B570DBFB7F68/0/IL0921.pdf>

VA: <http://www.tax.virginia.gov/Documents/Military%20Spouses%20Residency%20Relief%20Act%20Tax%20Bulletin.pdf>

As of January 13, 2010, Georgia, Hawaii, Mississippi, New Jersey and Rhode Island had not yet updated their websites. And of course, Florida and Texas residents are exempt from state income tax. Rest assured that we will continue to release additional guidance when we receive it.

5. **Points of Contact:** For questions or comments about this TIM, or if you have information you would like us to make available to your LA colleagues, please contact the Code 16 team. LCDR Dave Lee is the lead for this TIM. Please bear in mind that, while still suffering from a Green Bay hangover, he can still take your calls/emails. Our contact information is in the sidebar.

ROBERT O'NEILL

